

NR 406.16 General construction permits.

(1) ISSUANCE OF GENERAL CONSTRUCTION PERMITS. (a) The department may issue general permits for the construction, reconstruction, replacement, relocation or modification of stationary sources in accordance with s. 285.60 (3), Stats.

Note: A general construction permit is not required prior to commencing construction, reconstruction, replacement, relocation or modification of a stationary source if the source is covered under a general operation permit and the project meets the criteria in s. NR 407.10 (4) (a).

(b) A general construction permit may be issued for a source category if the sources in the category meet all of the following criteria:

1. Perform the same or similar operations.
2. Emit the same class of air contaminants.

Note: An example of "the same class of air contaminants" is volatile organic compounds.

3. Employ the same or similar capture and control systems, if applicable.

4. Are subject to the same or similar emission limitations and other state and federal requirements that are applicable to the sources in the category.

Note: An example of "similar emission limitations" is emission limitations for the same air contaminant but that differ based on the size of the source, its location, or its date of construction.

(c) When proposing to issue a general construction permit, the department shall prepare an air quality analysis and a preliminary determination on the approvability of the proposed general construction permit. The department shall use the applicable procedures in s. 285.61, Stats., to issue a general construction permit. The department may issue the general construction permit if the applicable criteria in s. 285.63, Stats., are met. The procedural requirements in s. 285.61 (2) to (8), Stats., do not apply to the determination of whether an individual source is covered by a general construction permit for a source category.

Note: The statutes cited above require that when issuing a general construction permit, the department distribute a notice of the availability of the proposed general construction permit and of the department's analysis and preliminary determination, a notice of the opportunity for public comment and a notice of the opportunity to request a public hearing. There will be a 30-day public comment period and the department may hold a public hearing within 60 days after the deadline for requesting one.

(d) The general construction permit shall contain applicability criteria, emission limits, monitoring and recordkeeping requirements, reporting requirements, compliance demonstration methods and general conditions appropriate for the stationary source category. The permit terms and conditions shall include those required to comply with the Act and those required to assure compliance with applicable provisions in ch. 285, Stats., and chs. NR 400 to 499. Notwithstanding the requirement in s. NR 424.03 (2) (c) to determine the latest available control techniques and operating practices demonstrating best current technology (LACT) for a specific process line, the department may include conditions in the general construction permit that represent LACT, if the requirements of s. NR 424.03 (2) (a) or (b) are determined to be technologically infeasible.

Note: If an area is designated nonattainment for particulate matter, PM10, sulfur dioxide, nitrogen oxides, carbon monoxide or lead, the department may revise the general construction permit, or issue a different one, to include nonattainment area specific applicability criteria.

(2) SOURCES INELIGIBLE FOR COVERAGE UNDER A GENERAL CONSTRUCTION PERMIT. Notwithstanding the existence of a general construction permit for a stationary source category, the stationary source may not be covered by the general construction permit if any of the following criteria apply to the emissions unit or units for which coverage is sought:

(a) The emissions unit or units are an affected source under ch. NR 409, a municipal solid waste combustion source under s. NR 500.03 (86) or an infectious waste combustion source.

(b) The proposed project would result in one or more new or existing emissions units at the facility being required to obtain a permit under ch. NR 405 or 408.

Note: An example is the addition of an emissions unit at a PSD or nonattainment area major source that is considered a major modification to that source. Another example is a project that results in an emissions unit either upstream or downstream from the project increasing its emissions such that it would be required to obtain a permit under ch. NR 405 or 408.

(c) The emissions unit or units cause or exacerbate, or may cause or exacerbate, a violation of any ambient air quality standard or ambient air increment, as determined by the department through an air quality assessment conducted in accordance with s. NR 406.11 (1) (g).

(d) The construction, reconstruction, replacement, relocation or modification of the emissions unit or units constitutes a type 2 action under s. NR 150.03 (8) (b) 1. a., unless the review process under to s. NR 150.20 (1) (c) has been completed prior to granting coverage under the permit to the stationary source.

(3) PROCEDURE FOR DETERMINING COVERAGE UNDER A GENERAL CONSTRUCTION PERMIT FOR AN INDIVIDUAL SOURCE. (a) An owner or operator of a stationary source who applies for coverage under a general construction permit shall submit an application using department approved permit application forms.

Note: Contact the regional offices or service centers of the department or the Permits and Stationary Source Modeling Section of the Bureau of Air Management,

608-266-7718, for information on how to obtain and submit the department approved general permit application forms.

(b) An owner or operator of a stationary source who requests or requires emission limits, terms or conditions other than, or in addition to, those contained in the general construction permit shall apply for a different type of permit.

(c) Within 15 days after the receipt of an application for coverage under a general construction permit, the department shall provide one of the following to an applicant:

1. Written notice of the department's determination that the source is covered under the general construction permit.

2. A written description of any information that is missing from the application for coverage under the general construction permit.

3. Written notice of the department's determination that the source does not qualify for coverage under the general construction permit, specifically describing the reasons for that determination.

(d) The department shall grant coverage under the general construction permit if the owner or operator of the source applies for coverage and meets the eligibility requirements of the general construction permit, unless the source is ineligible under sub. (2).

(4) INCORPORATION OF A GENERAL CONSTRUCTION PERMIT INTO THE FACILITY OPERATION PERMIT. (a) When submitting an application for coverage under a general construction permit, the owner or operator of the source shall also submit an application for an operation permit or a request to revise its operation permit pursuant to ch. NR 407. Prior to issuing or revising the operation permit, the department shall determine that the applicable permit approval criteria under ss. 285.63 and 285.64, Stats., have been met.

(b) The general construction permit requirements and emission limitations shall be established as conditions in the operation permit.

(5) APPLICATION FOR A DIFFERENT PERMIT. (a) An owner or operator of a stationary source which is covered under a general construction permit may submit a request to the department to withdraw the source from coverage under the general construction permit and allow the source to be covered under a registration construction permit, a general construction permit for another source category or an individual construction permit. The owner or operator shall submit a written request for withdrawal from coverage under the general construction permit and a complete application for the different construction permit.

(b) An owner or operator of a stationary source that has an individual construction permit may submit a request to the department to revise or revoke the individual construction permit pursuant to s. NR 406.11 (3) and allow the source to be covered under a general construction permit. The owner or operator shall submit to the department a written request for revision or revocation of the individual construction permit and a complete application for a general construction permit under this section.

(c) An owner or operator of a stationary source that is covered under a registration construction permit may submit a request to the department to withdraw the source from coverage under the registration construction permit and allow the source to be covered under a general construction permit. The owner or operator shall submit to the department a written request for withdrawal from coverage under the registration construction permit and a complete application for a general construction permit under this section.

(d) The owner or operator shall submit the request for revision or revocation of an individual construction permit or withdrawal from coverage under a general or registration construction permit on department approved forms.

Note: Contact the regional offices or service centers of the department or the Permits and Stationary Source Modeling Section of the Bureau of Air Management, 608-266-7718, for information on how to obtain and submit the department approved forms.

(e) The owner or operator of a facility submitting an application for a different permit under this subsection shall comply with the existing permit until the department has issued or granted coverage under the different permit.

History: CR 04-107; cr. Register August 2005 No. 596, eff. 9-1-05.

NR 406.17 Registration construction permits.

(1) ISSUANCE OF REGISTRATION CONSTRUCTION PERMITS. (a) The department may issue registration permits for the construction, reconstruction, replacement, relocation or modification of stationary sources with low actual or potential emissions in accordance with s. 285.60 (2g), Stats.

Note: A registration construction permit is not required prior to commencing construction, reconstruction, replacement, relocation or modification of a stationary source if the source is covered under a registration operation permit and the project meets the criteria in s. NR 407.105 (5) (a).

(b) When proposing to issue a registration construction permit, the department shall prepare an air quality analysis and a preliminary determination on the approvability of the proposed registration construction permit. The department shall use the applicable procedures in s. 285.61, Stats., to issue a registration construction permit. The department may issue the registration construction permit if the applicable criteria in s. 285.63, Stats., are met. The procedural requirements in s. 285.61 (2) to (8), Stats., do not apply to the determination of whether an individual stationary source may be covered by a registration construction permit.

Note: The statutes cited above require that when issuing a registration construction permit, the department distribute a notice of the availability of the proposed registration construction permit and of the department's analysis and preliminary determination, a notice of the opportunity for public comment and a notice of the opportunity to request a public hearing. There will be a 30-day public comment period and the department may hold a public hearing within 60 days after the deadline for requesting one.

(c) The registration construction permit shall contain applicability criteria, emission caps and limitations, monitoring and recordkeeping requirements, reporting requirements, compliance demonstration methods and general conditions. The permit terms and conditions shall include those required to comply with the Act and those required to assure compliance with applicable provisions in ch. 285, Stats., and chs. NR 400 to 499. Notwithstanding the requirement in s. NR 424.03 (2) (c) to determine the latest available control techniques and operating practices demonstrating best current technology (LACT) for a specific process line, the department may include conditions in the registration construction permit that represent LACT, if the requirements of s. NR 424.03 (2) (a) or (b) are determined to be technologically infeasible.

Note: If an area is designated nonattainment for particulate matter, PM10, sulfur dioxide, nitrogen oxides, carbon monoxide or lead, the department may revise the registration construction permit, or issue a different one, to include nonattainment area specific applicability criteria.

(2) CRITERIA FOR ISSUANCE OF A REGISTRATION CONSTRUCTION PERMIT. (a) A registration construction permit shall be issued for the construction, reconstruction, replacement, relocation or modification of stationary sources that meet all of the following criteria:

1. Actual emissions of each air contaminant from the construction, reconstruction, replacement, relocation or modification of the stationary source or sources will not exceed 25% of any major source threshold in s. NR 407.02 (4), over any 12 consecutive month period, except that emissions of lead may not exceed 0.5 tons over any 12 consecutive month period.

2. The facility is not, and will not as a result of the project be, a major source under ch. NR 405, 407 or 408.

(b) Notwithstanding par. (a), the department may issue registration construction permits for coverage of other types of stationary sources that the department determines have or will have low actual or potential emissions, in response to a petition submitted under s. NR 406.18.

(3) SOURCES INELIGIBLE FOR COVERAGE UNDER A REGISTRATION CONSTRUCTION PERMIT. Notwithstanding the existence of a registration construction permit, an individual stationary source may

not be covered under a registration construction permit if any of the following criteria apply:

(a) The emissions unit or units are an affected source under ch. NR 409, a municipal solid waste combustion source under s. NR 500.03 (86) or an infectious waste combustion source.

(b) The proposed project would result in one or more new or existing emissions units at the facility being required to obtain a permit under ch. NR 405 or 408.

Note: An example is the addition of an emissions unit at a PSD or nonattainment area major source that is considered a major modification to that source. Another example is a project that results in an emissions unit either upstream or downstream from the project increasing its emissions such that it would be required to obtain a permit under ch. NR 405 or 408.

(c) The emissions unit or units cause or exacerbate, or may cause or exacerbate, a violation of any ambient air quality standard or ambient air increment, as determined by the department through an air quality assessment conducted in accordance with s. NR 406.11 (1) (g).

(d) The construction, reconstruction, replacement, relocation or modification of the emissions unit or units would be subject to a standard or regulation under section 111 of the Act (42 USC 7411) or under section 112 of the Act (42 USC 7412), other than those contained in the registration construction permit, or which are determined by the department to not preclude eligibility for the registration construction permit.

(e) The construction, reconstruction, replacement, relocation or modification of the emissions unit or units constitutes a type 2 action under s. NR 150.03 (8) (b) 1. a., unless the review process under s. NR 150.20 (1) (c) has been completed prior to granting coverage under the permit to the stationary source.

(4) PROCEDURE FOR DETERMINING COVERAGE UNDER A REGISTRATION CONSTRUCTION PERMIT FOR AN INDIVIDUAL SOURCE. (a) An owner or operator of a stationary source who applies for coverage under a registration construction permit shall submit an application using department approved registration permit application forms.

Note: Contact the regional offices or service centers of the department or the Permits and Stationary Source Modeling Section of the Bureau of Air Management, 608-266-7718, for information on how to obtain the department approved registration permit application forms.

(b) An owner or operator of a stationary source who requests or requires emission limits, terms or conditions that require case-by-case review and approval by the department, or emission limits, terms or conditions other than, or in addition to, those contained in the registration construction permit, shall apply for a different type of permit.

(c) Within 15 days after the receipt of the application form prescribed by the department, the department shall provide one of the following to an applicant for a registration construction permit:

1. Written notice of the department's determination that the source is covered under the registration construction permit.

2. A written description of any information that is missing from the application for coverage under the registration construction permit.

3. Written notice of the department's determination that the source does not qualify for coverage under the registration construction permit, specifically describing the reasons for that determination.

(d) The department shall grant coverage under the registration construction permit if the owner or operator of the source applies for coverage and meets the eligibility requirements in the registration construction permit, unless the source is ineligible under sub. (3).

(e) For the purpose of determining whether a source is eligible for coverage under a registration construction permit, the source's emissions shall be calculated using the terms and conditions listed in the registration construction permit.

Note: The permit terms and conditions may include capture and control efficiencies. The Air Emissions Management System (AEMS) requires the owner or operator

of a source to calculate actual annual emissions for reporting to the inventory using the terms and conditions in a permit.

(5) INCORPORATION OF REGISTRATION CONSTRUCTION PERMIT INTO THE FACILITY OPERATION PERMIT. (a) When submitting an application for coverage under a registration construction permit, the owner or operator of the source shall also submit an application for an operation permit or a request to revise its operation permit pursuant to ch. NR 407. Prior to issuing or revising the operation permit, the department shall determine that the applicable permit approval criteria under ss. 285.63 and 285.64, Stats., have been met.

(b) The registration construction permit requirements, emission caps and limitations shall be established as conditions in the operation permit.

(6) APPLICATION FOR A DIFFERENT PERMIT. (a) An owner or operator of a stationary source that is covered under a registration construction permit may submit a request to the department to withdraw coverage under the registration construction permit and allow the source to be covered under a general construction permit or be issued an individual construction permit. The owner or operator shall submit a written request for withdrawal of coverage under the registration construction permit and a complete application for a general or individual construction permit.

(b) An owner or operator of a stationary source that has an individual construction permit may submit a request to the department to revise or revoke the individual construction permit pursuant to s. NR 406.11 (3) and allow the source to be covered under a registration construction permit. The owner or operator shall submit to the department a written request for revision or revocation of the individual construction permit and a complete application for a registration construction permit under this section.

(c) An owner or operator of a stationary source that is covered under a general construction permit may submit a request to the department to withdraw the source from coverage under the general construction permit and allow the source to be covered under a registration construction permit. The owner or operator shall submit to the department a written request for withdrawal of the general construction permit and a complete application for a registration construction permit under this section.

(d) The owner or operator shall submit a request for revision or revocation of a construction permit or withdrawal from coverage under a construction permit under this subsection on department approved forms.

Note: Contact the regional offices or service centers of the department or the Permits and Stationary Source Modeling Section of the Bureau of Air Management, 608-266-7718, for information on how to obtain and submit the department approved forms.

(e) The owner or operator of a facility submitting an application for a different permit under this subsection shall comply with the existing permit until the department has issued or granted coverage under the different permit.

History: CR 04-107: cr. Register August 2005 No. 596, eff. 9-1-05.

NR 406.18 Petition for issuance of general construction permits and registration construction permits.

(1) A person may petition the department to make a determination that a category of stationary source meets the criteria for a general construction permit under s. 285.60 (3), Stats., and s. NR 406.16 (1). A person may petition the department to make a determination that a stationary source meets the criteria for a registration construction permit under s. 285.60 (2g), Stats., and s. NR 406.17 (1) and (2) (b). The department may consider the number of sources that would be eligible for the permit, the complexity of air regulations applicable to the sources, the likelihood that sources would need source-specific emission limitations and other relevant factors in determining its priority for developing a general or registration construction permit. Within 30 days after receipt of the petition, the department shall provide a written response to the petitioner granting or denying the petition. If the department grants the petition, the department shall issue the gen-

eral construction permit or the registration construction permit as soon as practicable, but no later than 365 days after receipt of the petition.

(2) The person shall submit the petition on department approved forms.

Note: Contact the regional offices or service centers of the department or the Permits and Stationary Source Modeling Section of the Bureau of Air Management, 608-266-7718, for information on how to obtain and submit the department approved forms.

History: CR 04-107: cr. Register August 2005 No. 596, eff. 9-1-05.